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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI'I

ILIO'ULAOKALANI COALITION,) CIVIL NO.04-00502 DAE BMK
a Hawaii, nonprofit corporation;)
NA'IMI PONO, a Hawaii) FEDERAL DEFENDANTS'
unincorporated association; and) MOTION TO EXCEED THE PAGE
KIPUKA, a Hawaii unincorporated) LIMITATION IN LOCAL RULE 7.5;
association,) CERTIFICATE OF SERVICE
)
)
Plaintiffs,)
)
v.)
)
DONALD H. RUMSFELD, Secretary of)
United States Department of) <u>Hearing:</u>
Defense; and LES BROWNLEE, Acting)
Secretary of the United States) Date: November 20, 2006
Department of the Army,) Time: 9:45 a.m.
) Judge: Hon. David A. Ezra
Defendants.)

_____)

Federal Defendants, DONALD H. RUMSFELD, Secretary of the United States Department of Defense; and FRANCIS J. HARVEY, Secretary of the United States Department of the Army ("Army"), by and through undersigned counsel, request leave to file an overlength brief exceeding the thirty (30) page limit set forth in LR 7.5 of the Local Rules of Practice for the United States District Court for the District of Hawaii. The Army's overlength Memorandum on the Scope of Interim Injunctive Relief in Accordance with the Ninth Circuit's Remand is submitted simultaneously with this motion and exceeds the limit in LR 7.5 by thirty (30) pages.

While the Army's memorandum exceeds the page limitation in LR 7.5, the Army believes filing an overlength brief is necessary to address the numerous issues associated with the appropriate scope of injunctive relief. Furthermore, due to emergent circumstances surrounding the scope of injunctive relief, the Army only has one opportunity to file briefing with the Court and, therefore, an overlength brief is necessary to fully develop the record for the Court's consideration. As the Court explained in a status conference held on November 6, 2006, its role is to determine the appropriate scope of an injunction, but it "has to be with an appropriate record." See D. Ct. Transcript at 11. The Court further noted that it wants the parties to properly develop

the record and it wants to have a complete record upon which to base its decision. Id. at 12.

Consistent with the Court's concerns and the critical nature of the issue before this Court, the Army respectfully requests permission to file an overlength brief that develops the record before this Court, fully addresses the issues relevant to the appropriate scope of an injunction, and anticipates and responds to the potential arguments Plaintiffs may submit in their simultaneous briefing. The issues relevant to the appropriate scope of injunctive relief are significant and require a detailed explanation of the proposed actions needed for transformation, the lack of harm that will result from these actions, and the potential for grave harm to the nation's soldiers and security interests if transformation is enjoined. In order to ensure that the Court has the information needed and a fully developed record, the Army has submitted an overlength brief that address the critical issues needed to resolve the appropriate scope of injunctive relief.

More specifically, the Army's injunction motion first addresses, in great detail, the severe harm that an interim injunction would cause to the Army if it included prohibitions on critical training, and construction and use of six training facilities required for the transformation of the 2d Brigade into a Stryker Brigade Combat Team ("SBCT") by November 2007. Second,

the Army's motion addresses the anticipated claims of irreparable harm alleged by Plaintiffs. Since the parties are submitting simultaneous briefing, the Army must anticipate the potential harm Plaintiffs intend to raise and thoroughly address these claims for the Court. Finally, the Army must demonstrate that the balance of harms weighs decidedly in its favor and that public interest strongly supports an injunction that will allow the 2d Brigade to transform to an SBCT by November 2007. Since each of these issues is critical to the Court's evaluation of the appropriate scope of an interim injunction, the Army wishes to file an overlength brief in order to adequately and thoroughly address the issues presented for the Court's review.

For the foregoing reasons, the Army respectfully requests that this Court grant the instant motion to exceed the page limit for a motion by thirty (30) pages and permit the filing of the Army's overlength memorandum on the appropriate scope of injunctive relief.

Respectfully submitted this 14th day of November 2006,

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/s/ Thomas Helper

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

'ILIO'ULAOKALANI COALITION, a)	CIVIL NO. 04-00502 DAE-BMK
Hawai'i nonprofit corporation;)	
NA 'IMI PONO, a Hawai'i)	CERTIFICATE OF SERVICE
unincorporated association;)	
and KIPUKA, a Hawai'i)	
unincorporated association,)	
)	
Plaintiffs,)	
)	
vs.)	
)	
DONALD H. RUMSFELD, Secretary)	
of Defense; and FRANCIS J.)	
HARVEY, Secretary of the)	
United States Department of)	
the Army,)	
)	
Defendants.)	
)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the date and by the method of service noted below, a true and correct copy of the foregoing was served on the following at their last known addresses:

Served Electronically through CM/ECF:

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Attorneys for Plaintiffs

DATED: November 14, 2006, at Honolulu, Hawaii.

/s/ Jan Yoneda
